

Regular Session, 2009

HOUSE BILL NO. 87

BY REPRESENTATIVE CARMODY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/SEX OFFENSES: Amends elements of the crime of indecent behavior with juveniles involving lewd or lascivious communications

1 AN ACT

2 To amend and reenact R.S. 14:81(A)(2), (C), and (E), relative to indecent behavior with
3 juveniles; to amend the elements of the crime with regard to the type and method of
4 delivery of lewd or lascivious communications to include textual, visual, written, or
5 oral communications; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:81(A)(2), (C), and (E) are hereby amended and reenacted to read
8 as follows:

9 §81. Indecent behavior with juveniles

10 A. Indecent behavior with juveniles is the commission of any of the
11 following acts with the intention of arousing or gratifying the sexual desires of either
12 person:

13 * * *

14 (2) The transmission, delivery or utterance of ~~an electronic~~ any textual,
15 ~~communication or an electronic~~ visual, written, or oral communication depicting
16 lewd or lascivious conduct, text, words, or images to any person reasonably believed
17 to be under the age of seventeen and reasonably believed to be at least two years
18 younger than the offender. It shall not be a defense that the person who actually
19 receives the transmission is not under the age of seventeen.

20 * * *

1 C. For purposes of this Section, ~~the following words have the following~~
2 ~~meanings:~~

3 (1) ~~"Electronic textual communication" means a textual communication~~
4 ~~made through the use of a computer on-line service, Internet service, or any other~~
5 ~~means of electronic communication, including but not limited to a local bulletin~~
6 ~~board service, Internet chat room, electronic mail, or on-line messaging service.~~

7 (2) ~~"Electronic visual communication" means the communication of a visual~~
8 ~~image made through the use of a computer on-line service, Internet service, or any~~
9 ~~other means of electronic communication, including but not limited to a local~~
10 ~~bulletin board service, Internet chat room, electronic mail, or on-line messaging~~
11 ~~service. "textual, visual, written, or oral communication" means any communication~~
12 ~~of any kind, whether electronic or otherwise, made through the use of the United~~
13 ~~States mail, any private carrier, personal courier, computer online service, Internet~~
14 ~~service, local bulletin board service, Internet chat room, electronic mail, online~~
15 ~~messaging service, or personal delivery or contact.~~

16 * * *

17 E. An offense committed under this Section and based upon the transmission
18 and receipt of ~~electronic textual or visual communications~~ textual, visual, written,
19 or oral communication may be deemed to have been committed where the ~~electronic~~
20 communication was originally sent, originally received, or originally viewed by any
21 person.

22 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Carmody

HB No. 87

Abstract: Expands the crime of indecent behavior with juveniles to include not only lewd electronic communications but also traditional and verbal communications.

Present law, relative to the crime of indecent behavior with juveniles, makes it unlawful to:

- (1) Commit any lewd or lascivious act upon the person or in the presence of any child under the age of 17, where there is an age difference of greater than two years between the two persons; or
- (2) Transmit an electronic textual communication or an electronic visual communication depicting lewd or lascivious conduct, text, or images to any person reasonably believed to be under the age of 17 and reasonably believed to be at least two years younger than the offender.

Proposed law retains (1) (above) but revises (2) (above) by prohibiting the transmission delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, word, or images and retains all other elements regarding communications.

Proposed law deletes the existing definitions of "electronic textual and visual communication" and adds a new definition of "textual, visual, written, or oral communication" which includes any communication of any kind, whether electronic or otherwise, made through the use of the U.S. mail, any private carrier, personal courier, computer online service, Internet service, local bulletin board service, Internet chat room, electronic mail, online messaging service, or personal delivery or contact.

Proposed law retains present law penalties as follows:

- (1) A fine of not more than \$5,000, or imprisonment with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of C.Cr.P. Art. 893.
- (2) If victim is under the age of 13 when the offender is 17 years of age or older, the defendant shall be punished by imprisonment at hard labor for not less than two nor more than 25 years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(Amends R.S. 14:81(A)(2), (C), and (E))